

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Review of the Commission's)	MM Docket No. 94-150
Regulations Governing Attribution)	
of Broadcast and Cable/MDS)	
Interests)	
)	
Review of the Commission's)	MM Docket No. 92-51
Regulations and Policies)	
Affecting Investment)	
in the Broadcast Industry)	
)	
Reexamination of the Commission's)	MM Docket No. 87-154
Cross-Interest Policy)	

To: The Commission

COMMENTS OF CENTENNIAL COMMUNICATIONS, INC.

Centennial Communications, Inc. ("Centennial"), pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, hereby submits these comments in response to the Further Notice of Proposed Rulemaking issued by the Commission in the above-captioned proceeding.¹ Through its *Second Further Notice*, the Commission seeks, *inter alia*, comment regarding a proposal to attribute television local marketing agreements ("LMAs"). Centennial firmly believes that television LMAs

¹ FCC 96-436 (released November 7, 1996) ("Attribution Further Notice").

should be attributable for purposes of its multiple ownership rules.

I. INTRODUCTION AND SUMMARY

Centennial is the licensee of television station WGNT, Channel 27, Portsmouth-Norfolk, Virginia. WGNT serves the Norfolk-Portsmouth-Newport News-Hampton market, the country's 40th largest designated market area ("Norfolk DMA").

Seven commercial broadcast stations, three VHF and four UHF, serve the Norfolk DMA.² WGNT, a UHF station, is the only locally-owned independent station in the market. The three VHF stations are affiliated with the three major networks and are owned by major groups, i.e., WTKR-TV, Channel 3, CBS, The New York Times Co.; WAVY-TV, NBC, Channel 10, LIN Television Corp. ("LIN"), and WVEC-TV, Channel 13, ABC, A.H. Belo Corp. Broadcast Division. WTVZ, Channel 33, is a Fox affiliate licensed to the Sinclair Broadcast Group, Inc.; and WJCB, Channel 49, is a religious station licensed to Tidewater Christian Communications Corp.³ The remaining UHF station, WVBT, Channel 43, a

² An additional UHF channel, Channel 21, has been allotted to the Norfolk market. Twenty applications for that channel are pending; it is not likely to have a competitive impact in the near future.

³ It is Centennial's understanding that an application for assignment of the license for WJCB to Lockwood Broadcasting currently is pending.

Warner Bros. affiliate, is operated by LIN, licensee of the NBC affiliate, under an LMA. WVBT will become a Fox affiliate in September of 1998.

It is difficult for a locally-owned independent station such as WGNT to survive in a marketplace where it competes against major group owners with network-affiliated VHF outlets, as well as a UHF Fox affiliate run by a major group. Continued ignorance of LMAs for attribution purposes, relaxation of the duopoly rule, and/or the perpetual grandfathering of existing LMAs will make it virtually impossible.⁴ To ensure the continued viability of stations like WGNT, which serves the public interest by virtue of its local ownership and unique programming, the Commission's rules and policies governing television duopolies and television LMAs must be crafted so as not to enhance the already formidable competitive advantages inherent in group ownership and/or assignment to a VHF channel.

As further demonstrated below, Centennial believes its experience in the Norfolk DMA demonstrates why the Commission should treat time brokerage of another

⁴ Centennial is filing comments in response to the Commission's Second Further Notice of Proposed Rulemaking *In The Matter of Review of the Commission's Regulations Governing Television Broadcasting*, MM Docket No. 91-221, FCC 93-438 (released November 7, 1996) ("Second Further Notice") and details its opposition to relaxation of the duopoly rules and grandfathering of existing LMAs therein.

television station for more than fifteen percent (15%) of the brokered station's weekly broadcast hours as being attributable (therefore as counting toward the brokered licensee's multiple ownership limits.

II. DISCUSSION

As Centennial elaborates in its comments filed in response to the Commission's *Second Further Notice*, the company firmly believes that there is no public interest benefit to be gained through relaxation of the Commission's rules to permit same-market television combinations, whether through ownership or LMA, particularly VHF/VHF combinations or any combinations involving stations held by group owners. Centennial's experience demonstrates that there is no material distinction between control of a television station whether through ownership or LMA. For the Commission to continue to ignore LMAs for purposes of attribution will serve only to foster potentially anticompetitive and diversity-reducing mergers.

A. There Is No Material Distinction Between Ownership And LMAs For Purposes Of Attribution

Centennial's experience in the Norfolk DMA illustrates precisely how the distinction between ownership and LMAs from a competitive standpoint is blurred, and the resulting same-market combinations work to disserve the public interest. LIN, operator of NBC affiliate WAVY, also runs

UHF station WVBTV, a Warner Bros. affiliate, through an LMA. To the public's detriment, a great deal of the programming now aired on WVBTV duplicates that aired on WAVY. Thus, the independent voice that was WVBTV virtually has been silenced.

Further, LIN's LMA has skewed drastically the competitive marketplace in favor of the group owner. As a result of its LMA agreement, LIN broadcasts NBC programming not cleared for WAVY over WVBTV. LIN's significant leverage as owner of the dominant NBC affiliate combined with the additional outlet provided by WVBTV has foreclosed a variety of competitive opportunities for other stations in the market. For example, because LIN preferred to air Atlantic Coast Conference ("ACC") football on WAVY, independent WGNT was able to carry NBC's Notre Dame football. Now, Notre Dame football is aired on WVBTV, depriving WGNT of a significant programming source. Similarly, WGNT was able to air ACC basketball games not cleared on WAVY. Those games are now run on WVBTV. WGNT is unable to bid on certain syndicated programming, as LIN broadcasts over WVBTV syndicated programming originally purchased for WAVY.

As a result of LIN's LMA, therefore, program diversity has been significantly reduced -- viewers in the local market receive a great degree of duplicative programming, effectively reducing the number of television voices within the marketplace from seven to six. In addition, the LMA confers upon LIN a distinct competitive advantage in the

program distribution and advertising markets. LIN's competitive advantage will become even more acute once WVBT affiliates with Fox -- WAVY currently commands a 26.7% local market share. That, combined with the 15-16% share typically garnered by Fox affiliates, will give LIN 42% of the Norfolk market share.

B. The Commission Should Attribute LMAs for Purposes of Its Local Television Ownership Rule and Should Limit Grandfathering of Existing LMAs

Currently, the Commission does not attribute television LMAs for local and national ownership purposes; therefore, these relationships are not subject to the Commission's ownership rules. Centennial believes that LMAs should be attributable for purposes of applying the Commission's ownership rules.

The Commission has indicated that, in adopting rules to govern the use of television LMAs, it may be guided by the rules currently applicable to the radio industry. Radio station ownership is attributed to any radio licensee who enters into an LMA with another radio station if the agreement involves the brokering of more than 15% of the station's weekly broadcast hours. More significantly, the Commission allows duopoly ownership and same market LMAs in radio.

While the Commission may have determined that such combinations are beneficial in the radio context, Centennial again emphasizes that same-market combinations

have worked and will continue to work to disserve the public interest in the television context. Centennial cautions the Commission, therefore, not to assume that the reasoning through which it justified relaxation of the ownership rules and policies governing the radio industry can equally be applied to television.

First, given the relatively large number of radio outlets in any given market, the public interest in ensuring a diversity of viewpoints is not materially threatened through joint ownership of radio stations within the same market. The number of broadcast outlets in the television service, however, is appreciably different. For example, in WGNT's market there are more than thirty-five commercial radio stations -- but only seven commercial television stations. Duplication of television programming has a much more drastic effect upon viewpoint diversity, therefore, than does duplication of radio programming.

Further, the marketing and programming distinctions between radio and television warrant different standards for television. For example, major network affiliation, in terms of programming provided and compensation, is critical in television. In radio, networks are, at best, a limited source of programming. The nature of television programming, i.e., network, off-network, syndicated and film packages, and its availability, cost, and the manner in which it is sold, are quite different from radio, which emphasizes format and on-air personalities.

The *Second Further Notice* requests comment on the Commission's proposal to grandfather all television LMAs entered into before November 5, 1996, subject to renewability and transferability guidelines similar to those governing radio LMAs. As stated above, Centennial believes that the Commission must retain its prohibition on television duopolies; whether these combinations result through joint ownership or LMAs is irrelevant, as there exists no real world distinction. Should the Commission retain its existing duopoly rule and attribute television LMAs to the brokering station, the grandfathering of existing LMAs, given their proliferation, would, in many instances, eviscerate the duopoly rule's protection.

At a minimum, Centennial submits that any grandfathering of LMAs should be limited to LMAs that predate the enactment of the Telecommunications Act of 1996, i.e., February 8, 1996. Parties entering into LMAs prior to the adoption of the *Second Further Notice* had ample warning, through the *TV Ownership Further Notice*, that they were proceeding at their own risk and would not be unfairly impacted by any decision to invalidate LMAs entered into after February 8, 1996. Further, any grandfathering should be limited to a two-year sunset provision, providing ample time for licensees to make alternative arrangements. Existing LMAs should not be transferable or renewable.

III. CONCLUSION

For the foregoing reasons, Centennial submits that the Commission should: (1) treat time brokerage of another television station for more than fifteen percent (15%) of the brokered station's weekly broadcast hours as being attributable (therefore as counting toward the brokered licensee's multiple ownership limits); and (2) grandfather only those existing television LMAs that predate February 8, 1996, and impose on grandfathered LMAs a two-year sunset provision.

Respectfully submitted,

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